

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 DAVID BOLLINGER,)
10 Petitioner,) 2:98-cv-1263-RLH-PAL
11 vs.)
12 RENEE BAKER, *et al.*,)
13 Respondents.)
14 /

16 This order is issued pursuant to Federal Rule of Civil Procedure 16(b), the Rules Governing
17 Section 2254 Cases in the United States District Courts, and Local Rule 16-1.

18 This action is a petition for writ of habeas corpus brought by David Bollinger, a Nevada
19 prisoner sentenced to death. Bollinger initiated this action on September 9, 1998. The action was
20 stayed, upon a stipulation of the parties, on October 5, 2005, to allow Bollinger an opportunity to
21 exhaust claims in state court. On March 12, 2012, the stay was lifted.

22 On April 3, 2012, the court held a status conference. Counsel for petitioner and counsel for
23 respondents appeared, and discussed the anticipated course of proceedings in this action. In light of
24 the representations of counsel at the status conference, the court sets a schedule for further litigation
25 of this action, as follows.

1 **IT IS ORDERED:**

2 1. **Amended Petition.** If necessary, petitioner shall file and serve an amended petition
3 for a writ of habeas corpus on or before **July 6, 2012**. The amended petition shall contain
4 all known grounds for relief, both exhausted and unexhausted. The amended petition shall
5 specifically state whether each ground for relief has been exhausted in state court; for each claim that
6 has been exhausted in state court, the amended petition shall state how, when, and where that
7 occurred. If petitioner determines that an amended petition need not be filed, then, when the
8 amended petition is due, petitioner shall file and serve a statement to that effect.

9 2. **Response to Petition.** Respondents shall have **60 days** following service of the
10 amended petition to file and serve an answer or other response to the amended petition. If petitioner
11 does not file an amended petition, respondents shall have **60 days** following the due-date for the
12 amended petition to file and serve an answer or other response to the original petition.

13 3. **Reply and Response to Reply.** Petitioner shall have **45 days** following service of a
14 answer to file and serve a reply. Respondents shall thereafter have **30 days** following service of a
15 reply to file and serve a response to the reply.

16 4. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner
17 shall have **30 days** following service of the motion to file and serve an opposition to the motion.
18 Respondents shall thereafter have **30 days** following service of the opposition to file and serve a
19 reply.

20 5. **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner
21 shall file and serve such motion concurrently with, but separate from, the response to respondents'
22 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery
23 filed by petitioner before that time may be considered premature, and may be denied, without
24 prejudice, on that basis. Respondents shall file and serve a response to any such motion concurrently
25 with, but separate from, their reply in support of their motion to dismiss or their response to
26 petitioner's reply. Thereafter, petitioner shall have 20 days to file and serve a reply in support of the

1 motion for leave to conduct discovery. If the court grants petitioner leave to conduct discovery, the
2 court will then establish time limits for the completion of the authorized discovery.

3 6. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
4 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate
5 from, the response to respondents' motion to dismiss or the reply to respondents' answer. Any
6 motion for an evidentiary hearing filed by petitioner before that time may be considered premature,
7 and may be denied, without prejudice, on that basis. The motion for an evidentiary hearing must
8 specifically address why an evidentiary hearing is required, and must meet the requirements of
9 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in state court,
10 and, if so, state where the transcript is located in the record. If petitioner files a motion for an
11 evidentiary hearing, respondents shall file and serve a response to that motion concurrently with, but
12 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
13 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for an
14 evidentiary hearing.

15 7. **Status Reports and Status Conferences.** The court may from time to time, as the
16 need arises, schedule status conferences, and/or require the filing and service of status reports, in
17 order to manage the progress of this action.

19 || Dated this 3rd day of April, 2012.



UNITED STATES DISTRICT JUDGE